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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**In re application of:** Hodges, *et al.*

**Group Art Unit:** 2451

**Application No.:** 10/720,941

**Examiner:** Tran

**Filed:** November 24, 2003

**Attorney Docket:** 030006

**Title:** “Methods for Providing Communications Services”

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**37 C.F.R. § 1.8 CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being electronically transmitted via the USPTO EFS web interface on the date indicated below.

Scott P. Zimmerman

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March 19, 2010

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**APPELLANT’S REPLY BRIEF**

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Mail Stop: Appeal Brief — Patents  
Commissioner for Patents

The Assignee/Appellant hereby submits a Reply Brief to the Examiner’s Answer in the above-identified application.

A Notice of Appeal was filed March 21, 2008, along with a Pre-Appeal Brief Request for Review. The Panel decision was mailed June 19, 2009, and the Panel recommended proceeding to the BPAI. The Appellant’s Brief was submitted December 11, 2009, and the Examiner’s Answer was mailed January 22, 2010.

If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

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Scott P. Zimmerman  
Reg. No. 41,390  
Attorney for Appellant

## **STATUS OF CLAIMS**

Claims 1-20 are pending in this application.

Claims 1, 3, 19, and 20 are independent claims.

Claims 1-20 were finally rejected under 35 U.S.C. § 103 (a) as being obvious over U.S. Patent Application Publication 2006/0041679 to Feig in view of U.S. Patent Application Publication 2005/0094725 to Hui and further in view of U.S. Patent Application Publication 2004/0267686 to Chayes, *et al.*

The Appellant appeals the final rejection of claims 1-20.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The Appellant appeals the final rejection of claims 1-20 under 35 U.S.C. § 103 (a) as allegedly being obvious over U.S. Patent Application Publication 2006/0041679 to Feig in view of U.S. Patent Application Publication 2005/0094725 to Hui and further in view of U.S. Patent Application Publication 2004/0267686 to Chayes, *et al.*

## **ARGUMENT**

The Examiner's Answer again demonstrates a lack of understanding of the "impermissible changes" standard. The Appellant has twice presented compelling evidence that any proposed combination of *Feig* with *Chayes* requires drastic changes to *Feig*'s principle of operation. Indeed, the Appellant showed that significant portions of *Feig*'s teachings must be **eliminated**. See M.P.E.P. § 2145 (X)(D).

The Examiner's Answer is mistaken. The Examiner's Answer first argues that the Appellant impermissibly "attack[s] references individually." See Examiner Tran, Examiner's Answer mailed January 22, 2010, at page 9, paragraph (10) (I). The Examiner's Answer thus confuses obviousness with the "impermissible changes" standard.

The Examiner's Answer is also unresponsive. When an Applicant argues "impermissible changes" are required, then the burden shifts to the Office. The Office has the burden to properly rebut or to acquiesce. The Examiner's Answer, instead, merely repeats the same obviousness rejection. The Examiner's Answer fails to address why, or why not, *Feig*'s principle of operation must be changed to support the Office's *prima facie* case for obviousness. The Examiner's Answer is thus not responsive to the Appellant's "impermissible changes" position.

The Board, then, is respectfully requested to REMOVE the final rejection of claims 1-20 under 35 U.S.C. § 103 (a).

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

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